

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Edward Jones,

Plaintiff

V.

Daryl Morgan, et al.,

## Defendants

Case No.: 2:23-cv-02100-JAD-MDC

## Order Denying Motion

[ECF No. 34]

8 Clark County Detention Center detainee Edward Jones filed this civil-rights lawsuit  
9 under 42 U.S.C. § 1983 for events surrounding his arrest, search, seizure, and ongoing state-court  
10 prosecution.<sup>1</sup> This court stayed his case under the Supreme Court’s decision in *Younger v.*  
11 *Harris*, which prohibits federal courts from interfering in ongoing state criminal proceedings like  
12 Jones’s, and advised Jones that he may move to lift the stay once his state-court proceedings  
13 have concluded.<sup>2</sup> Jones has now filed a motion to lift the stay, explaining that he has since been  
14 convicted and sentenced in that case.<sup>3</sup> Jones has also filed a “Motion for Summary Judgement  
15 on Plaintiff’s Motion to Lift Stay,” in which he states that he received no opposition to his  
16 motion to lift stay, “therefore Jones contends he is entitled to summary judgement.”<sup>4</sup>

17 Summary judgment is a legal term that refers to a specific procedure, and it's not the  
18 right fit for what Jones is seeking here. Jones is essentially saying that this court should grant his  
19 motion to lift stay because it is unopposed. Indeed, the local rules of this court acknowledge that

1 ECF No. 1-1.

2 ECF No. 18.

23 | <sup>3</sup> ECF No. 32.

4 ECF No. 34.

1 the court may deem the failure of an opposing party to file an opposition as its consent to the  
2 relief requested in an unopposed motion.<sup>5</sup>

3 But that rule only works when the opposing parties in the case have been brought into the  
4 case by being served with the summons and complaint. When a pro se plaintiff is proceeding *in*  
5 *forma pauperis*, as Jones is here,<sup>6</sup> no defendants get brought into the case until the court orders  
6 summonses to be issued and service by the U.S. Marshal's office. That never happened here. So  
7 there is no active defendant to respond to Jones's motion to lift stay, and the absence of a timely  
8 opposition can't be reasonably construed as anyone's consent to grant the motion. So I deny  
9 Jones's request that the court construe his lift-stay motion as unopposed. Jones's motion to lift  
10 stay will be decided on its merits and in the normal course. Although I understand that Jones is  
11 eager for a ruling on that motion, this court has hundreds of other pending motions on its docket,  
12 so it may take months before the court gets to the lift-stay motion.

13 **IT IS THEREFORE ORDERED** that Jones's "Motion for Summary Judgement on  
14 Plaintiff's Motion to Lift Stay" [ECF No. 34] is **DENIED**. The court will get to the lift-stay  
15 motion as soon as possible and in the normal course. In the meantime, this case remains stayed.

  
U.S. District Judge Jennifer A. Dorsey  
June 27, 2025

23 | 5 L.R. 7-2(d).

<sup>6</sup> See ECF No. 5 (order granting ifp application).